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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,017	07/16/2003	David Heller	101-P288/P3054US1	1693

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EXAMINER	
MEUCCI, MICHAEL D	

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
10/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/622,017	HELLER ET AL.	
	Examiner	Art Unit	
	Michael D. Meucci	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the request for reconsideration filed 09 August 2007.

2. Claims 1-42 remain pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 15, and 27 rejected under 35 U.S.C. 102(e) as being anticipated by Lysenko et al. (U.S. 7,089,319 B2) hereinafter referred to as Lysenko.

a. Regarding claims 1, 15, and 27, Lysenko teaches: (a) accessing, by a second application program, a data communication file provided by a first application program the first application program utilizing database data in a proprietary format, and the data communication file being derived from the database data such that data internal to the data communication file is acquired from the database data (lines 26-30 of column 3); (b) producing a user interface on the display using data internal to the data communication file (lines 39-43 of column 3); (c) receiving a user selection with respect to the user interface (lines 11-16 of column 2 and lines 34-36 of column 2); (d) identifying a media content file associated with the user selection (lines 36-40 of column

2); (e) associating a media content file identified by the user selection to the second application program (lines 24-36 of column 3).

b. Regarding claim 2, Lysenko teaches: wherein the data within the data communication file includes a link to the media content file (lines 28-37 of column 10).

c. Regarding claim 3, Lysenko teaches: wherein the media content file is stored in the data storage device by the first application program, and thereafter the media content file is useable by the second application program (lines 45-56 of column 8).

d. Regarding claim 4, Lysenko teaches: wherein said associating comprises presenting the media content file at the computer system (lines 28-38 of column 10).

e. Regarding claim 5, Lysenko teaches: wherein said associating comprises playing or displaying, within the second application program on the computer system, media content from the media content file (lines 28-38 of column 10).

f. Regarding claim 6, Lysenko teaches: wherein the user interface includes at least a menu of media items determined from data acquired from the data communication file provided by the first application program (lines 40-45 of column 5).

g. Regarding claims 7 and 8, Lysenko teaches: wherein the user interface is produced and said method is performed by the second application (lines 24-36 of column 3 and lines 28-38 of column 10).

h. Regarding claim 9, Lysenko teaches: wherein the data communication file is a markup language document (lines 28-34 of column 10)

i. Regarding claim 11, Lysenko teaches: wherein data within the data communication file pertains to media items managed by the first application program (lines 28-34 of column 10).

j. Regarding claim 12, Lysenko teaches: discloses that the data within the data communication file includes at least media item properties and links to storage locations for media content files containing media content for the media items (lines 28-34 of column 10).

k. Regarding claim 13, Lysenko teaches: said producing, said receiving, said identifying, and said associating are each able to be performed regardless of whether the first application program is being executed by the computer system (lines 3-19 of column 9).

l. Claims 11-13, 16-19, 21-23, 25, 26, 28-31, and 33-42 contain limitations similar to those disclosed in claims 1-9 and 11-13, and are rejected under the same rationale.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 10, 20, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lysenko as applied above, in view of Book et al. (U.S. 2003/0223566), hereinafter referred to as Book.

a. Regarding claims 10, 20, and 32, Lysenko does not explicitly disclose that the markup language document is an XML document. Book teaches that XML can be used to create a web page (par. 88, line 11). Lysenko and Book are analogous art because they are from the same field of endeavor of computing systems. At the time of invention, it would have been obvious to one of ordinary skill in the art that Lysenko's web page could be written in XML, as taught by Book. The motivation for doing so would have been to enable Lysenko's invention to take advantage of the human readable tags that XML provides. It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to use XML documents as the markup language documents in the system as taught by Lysenko.

7. Claims 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lysenko as applied above, in view of Perkes et al. (U.S. 2002/0194601 A1) hereinafter referred to as Perkes.

a. Regarding claims 14 and 24, Lysenko teaches: wherein said second application program is an image or video manager and viewer (lines 26-30 of column 3); and (claim 24 only) wherein the data communication file is stored on any of a first program, a second program or a third program (lines 23-35 of column 8). Lysenko does not explicitly teach: wherein said first application program is a music manager and

player. However, Perkes discloses: "The consumer's selection is automatically detected and opens the media player required to play the type of media selected. If the Consumer activates the particular method implemented, the Guide will launch either a proprietary media player or any one of several widely distributed and well-known media player formats (such as Windows Media Player, RealPlayer or Apple's QuickTime Media Player), and display the preview of the content. For instance, if the content is a movie or video, the guide might play highlights of that content or a content provider supplied movie/video trailer may be shown. If the content is audio content, the guide might play highlights of the content, such as a portion of a musical piece or speech," (paragraph [0071] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have the first application program be a music manager and player. "These "teasers" would be used to encourage the consumer to play the previewed content, thereby increasing pay per views," (paragraph [0071] on page 7 of Perkes). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have the first application program be a music manager and player in the system as taught by Lysenko.

Response to Arguments

8. Applicant's arguments filed 90 August 2007 have been fully considered but they are not persuasive.

9. (A) Regarding claim 1, the applicant contends that Lysenko does not teach accessing, by a second application program, a data communication file provided by a first application program, the first application program utilizing database data in a proprietary format and that Lysenko does not teach database data. The examiner respectfully disagrees.

As to point (A), the applicant argues that claim 1 refers, not to proprietary multimedia file types but rather to information that pertains to those media items. The applicant is required to further limit the claim language if this is the intended purpose of the invention. In light of the specification, the applicant's claims still read on the invention of Lysenko because the proprietary file types of Lysenko (lines 24-26 of column 3) are equivalent in nature and intent as the database data in the applicant's invention. Additionally, regarding the argument that Lysenko does not teach database data, the examiner points out that any data on any storage device may be considered database data. It is readily appreciated by the examiner that the applicant's invention is directed towards a multimedia player similar or related to iTunes© and Apple's digital jukebox, however, the applicant must be more explicit with the claim limitations. As currently claimed, the applicant's invention is extremely broad and the cited prior art is applicable. As such, the rejection remains proper and is maintained by the examiner.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35

U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER